

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex 1, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex 1, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward masthead light. annex 1, sec. 3(a)	Percentage horizontal separation attained
USS MAHAN .....	DDG 72	X	X	X	13.9

Dated: March 19, 1997.

Approved:

**R.R. Pixa,**

*Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).*

[FR Doc. 97-9598 Filed 4-14-97; 8:45 am]

BILLING CODE 3810-FF-P

**PANAMA CANAL COMMISSION**

**35 CFR Parts 103 and 104**

RIN 3207-AA40

**Preference in the Transit Schedule/ Order of Transiting Vessels; Passenger Steamers Given Preference in Transiting**

**AGENCY:** Panama Canal Commission.

**ACTION:** Interim rule.

**SUMMARY:** This document announces a test of a revised vessel transit reservation system. The interim rule to be tested incorporates certain new features, including increasing the number of available reserved transit slots, creation of a third booking period, establishment of new booking fees for transit reservations whenever the total number of vessels awaiting transit is excessively high, and clarification and refinement of procedures concerning cancellations, refunds, and penalties.

The revised vessel transit reservation system to be tested also makes certain passenger vessels seeking preference over other vessels in transiting the Panama Canal, that heretofore were exempt, subject to this interim rule.

**DATES:** The test and the effective date of the interim rule shall commence at 2:00 p.m. (1400 hours) April 21, 1997.

**ADDRESSES:** Written comments concerning any aspect of the test should be directed to John A. Mills, Secretary, Panama Canal Commission, 1825 I Street, NW, Suite 1050, Washington, DC 20006-5402, Telephone (202) 634-6441, Fax (202) 634-6439, Internet E-Mail: PanCanalWO@AOL.COM.

**FOR FURTHER INFORMATION CONTACT:** John A. Mills, Secretary, Panama Canal Commission, 1825 I Street, NW, Suite 1050, Washington, DC 20006-5402, Telephone: (202) 634-6441, Fax (202) 634-6439, Internet E-Mail: PanCanalWO@AOL.COM.

**SUPPLEMENTARY INFORMATION:** Section 1801 of the Panama Canal Act of 1979, as amended (22 U.S.C. 3811), authorizes the Panama Canal Commission (PCC) to prescribe and, from time to time, amend regulations governing the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto. This interim rule constitutes such a regulation.

Articles II and III of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal expressly provides for payment of tolls and other charges for transit and ancillary services that are just, reasonable, equitable and consistent with international law. The booking fees that are a component of this interim rule are for transit and ancillary services.

This interim rule involves public property, the Panama Canal, and, therefore, is excluded from coverage of the Administrative Procedures Act. 5 U.S.C. 553(a)(2). Nevertheless, in implementing this interim rule, PCC has elected to proceed in a manner generally consistent with the provisions of the Administrative Procedures Act concerning notice of proposed rule making.

On March 5, 1997, PCC published in the **Federal Register** (Volume 62, Number 43, Pages 9997-10000), a notice of proposed rule with request for comments concerning a test of this interim rule. During the 30-day comment period, PCC received a number of written submissions from interested persons.

PCC considered all data, views, comments and suggestions submitted, some of which remain under

consideration and will be assessed in light of the test results.

PCC believes this interim rule is the best mechanism for fairly testing the various new features of the revised vessel transit reservation system, and will thus enable PCC at the end of the test to make informed, objective assessments concerning which system features are mutually beneficial to PCC and its customers. Depending on the test results, PCC may modify this interim rule in some aspects prior to implementation of the final rule.

To insure thoroughness in testing this interim rule, throughout the test period, PCC solicits detailed, objective data concerning the operational and economic impact of this interim rule on Canal customers.

The test of the revised Panama Canal Vessel Transit Reservation System will commence at 2:00 p.m. (1400 hours), on April 21, 1997. The test will be 120 days or longer in duration.

PCC strongly encourages all interested persons to submit written data, views or arguments anytime during the test period. All will be considered by PCC. Whenever suggested revisions to the interim rule are indicated, revisions based thereon will be incorporated into the final rule to be published at the conclusion of the test.

PCC is exempt from Executive Order 12866. The provisions of that directive, therefore, do not apply to this interim rule. Even if the Order was applicable, this interim rule would not have any significant economic impact on any substantial number of small entities under the Regulatory Flexibility Act of 1980.

Additionally, PCC has determined that implementation of this interim rule will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of PCC certifies that these regulatory changes meet the applicable standards contained in sections 3(a) and 3(b)(2) of Executive Order No. 12988 of February 7, 1996.

#### List of Subjects in 35 CFR Parts 103 and 104

Panama Canal, Reporting and recordkeeping requirements, Vessels.

Chapter I of 35 CFR is amended by removing §§ 103.8 and 103.9 and adding a new Part 104, to read as follows:

#### PART 104—VESSEL TRANSIT RESERVATION SYSTEM

Sec.

- 104.1 Applicability and scope.
- 104.2 Definitions.
- 104.3 Booking periods; allocation of booking slots.
- 104.4 Booked transits.
- 104.5 Passenger vessel preference.
- 104.6 Booking fees.
- 104.7 Penalties.
- 104.8 Re-scheduling.
- 104.9 Cancellations.
- 104.10 Regular transits.
- 104.11 Temporary suspension of system.
- 104.12 Further implementation.

**Authority:** 22 U.S.C. 3811.

##### § 104.1 Applicability and scope.

Subject to the limitations imposed by Article III of the 1901 Treaty to Facilitate the Construction of a Ship Canal, entered into by the United States and Great Britain, and by Articles II and VI of the 1977 Treaty concerning the Permanent Neutrality and Operation of the Panama Canal, between the United States and the Republic of Panama, Canal authorities have implemented a vessel transit reservation system that allows vessels desiring transit of the Panama Canal to reserve transit slots by complying with the provisions of this part.

##### § 104.2 Definitions.

(a) *Booked for transit* means that a vessel, in advance of arriving at the Canal, has been assigned a specific date by Canal authorities on which it will be moved through the Canal and that the vessel has otherwise complied with the provisions of this part.

(b) *Regular transit* means movement through the Canal of a vessel that has not been booked for transit.

(c) *Required arrival time* means the date and the hour of the day established by Canal authorities as the deadline by which a vessel booked for transit must arrive at a terminus of the Canal in order to transit on its reserved transit date.

##### § 104.3 Booking periods; allocation of booking slots.

(a) Vessel agents only may request reserved transit slots for vessels during the following booking periods:

(1) First period—365 to 22 days prior to the requested transit date.

(2) Second period—21 days to 4 days prior to the requested transit date.

(3) Third period—3 to 2 days prior to the requested transit date.

(b) A total of 21 reserved transit slots will be made available for all three booking periods, allocation of which among the booking periods is to be determined by Canal authorities. Canal authorities, from time to time, may adjust the total number of available reserved transit slots to ensure continued safe and efficient operation of the Canal.

##### § 104.4 Booked transits.

(a) The specific order vessels transit the Canal, whether booked or regular transits, shall be determined by Canal authorities. Except as provided in this part, a vessel booked for transit may not transit prior to its reserved transit date, unless Canal authorities determine that assigning the vessel an earlier transit slot would not impair safe and efficient operation of the Canal.

(b) Notwithstanding any subsequent assignment of an earlier transit slot, a vessel booked for transit will be charged the prescribed booking fee.

(c) Substitution of reserved transit slots between or among vessels booked for transit will be permitted only on conditions specified by Canal authorities.

##### § 104.5 Passenger vessel preference.

To the extent consistent with efficient operation of the Canal, and subject to being booked for transit, commercial passenger vessels running on fixed published schedules will be given preference over other vessels in transiting, as determined by Canal authorities.

##### § 104.6 Booking fees.

(a) The booking fee for reserving a transit slot for a vessel measured in accordance with § 135.13(a) of this chapter, shall be \$0.26 per PC/UMS Net Ton.

(b) The booking fee for reserving a transit slot for a vessel subject to transitional relief measures and measured in accordance with § 135.13(b) of this chapter, shall be \$0.23 per Panama Canal Gross Ton, as specified on the last tonnage certificate issued to the vessel by Canal authorities between March 23, 1976 and September 30, 1994, inclusive.

(c) Notwithstanding any contrary provision, whenever the total number of vessels awaiting transit at both terminuses of the Canal is projected by Canal authorities to be, within 48-hours, 90 or more vessels, any vessel booked for transit that transits the Canal while this condition is in effect shall automatically be assessed a booking fee of \$0.69 per PC/UMS Net Ton.

(d) Notwithstanding any contrary provision, the minimum booking fee for any vessel booked for transit shall be \$1500.

##### § 104.7 Penalties.

(a) The reserved transit slot of a vessel booked for transit will be cancelled by Canal authorities and a penalty fee assessed in a sum that is the greater of the prescribed booking fee or \$1,500, in the following situations:

(1) When a vessel that is subject to transit restrictions (e.g., clear cut, clear-cut daylight) has been booked for transit and does not arrive at a terminus of the Canal by 0200 hours of the day of the scheduled transit;

(2) When a vessel that is not subject to transit restrictions has been booked for transit and does not arrive at a terminus of the Canal by 1400 hours of the day of the scheduled transit; or

(3) When a vessel booked for transit arrives on time but cannot or, at the vessel operator's election, does not transit as scheduled, despite the readiness of Canal authorities to proceed.

(b) Canal authorities may waive assessment of a penalty fee if the vessel agent presents acceptable proof that late arrival of the vessel was due to a medical or humanitarian emergency arising during the voyage, or a naturally occurring, extraordinary phenomenon or event of major proportions that could not have been reasonably predicted in advance.

(c) Failure of the vessel agent to provide complete and accurate information required by Canal authorities when requesting transit bookings may result in rejection of the booking request or cancellation of the vessel's reserved transit slot.

(d) When a vessel's reserved transit slot is cancelled, and unless otherwise directed by the vessel agent, upon arrival, Canal authorities will re-schedule the vessel for regular transit.

##### § 104.8 Re-scheduling.

(a) Except as otherwise provided, a vessel agent, without penalty, may request cancellation of a vessel's reserved transit slot and rescheduling of the vessel for regular transit or, alternatively, may request assignment of

an alternate reserved transit slot, in the following situations:

(1) If for whatever reason Canal authorities cancel or significantly delay the transit of a vessel booked for transit that is otherwise ready to proceed as scheduled;

(2) If for whatever reason Canal authorities delay the transit of a vessel booked for transit to such a degree that the delay is likely to cause the vessel to be unable to meet its required arrival time for a later, second reserved transit, booked before the delay of the first reserved transit occurred; or

(3) If a vessel is booked for transit on the assumption that the vessel will pay the booking fee prescribed by § 104.6(a) or (b) but, subsequently, a change in traffic conditions occurs triggering the higher booking fee prescribed by § 104.6(c).

(b) A vessel booked for transit will be deemed to have transited the Canal on its reserved transit date if the vessel arrives at the first set of locks at either terminus of the Canal prior to 2400 hours that day and its in-transit time (ITT) is 18 hours or less. ITT begins when the vessel enters the first set of locks at either Canal terminus and ends when the vessel departs the last set of locks at the opposite terminus. No booking fee will be charged if ITT, through no fault of the vessel, exceeds 18 hours.

**§ 104.9 Cancellations.**

(a) A vessel agent may cancel the transit reservation of a vessel by giving notice prescribed by Canal authorities. In such event, and except as otherwise provided, a cancellation fee will be charged. The amount of the fee will depend on the amount of notice (days or hours) received by Canal authorities in advance of the vessel's required arrival time, according to the following schedule:

Advance notice periods	Cancellation fee (the greater of)
31 days or more .....	None
30 to 11 days .....	20% of booking fee or \$500
10 to 7 days .....	40% of booking fee or \$750
6 to 2 days .....	60% of booking fee or \$1,000
1 day to 8 hours .....	80% of booking fee or \$1,200

(b) Receipt of notice of cancellation of a transit reservation by Canal authorities after the vessel's required arrival time will result in levy of a cancellation fee equal to the entire prescribed booking fee.

**§ 104.10 Regular transits.**

Vessels not booked for transit will be scheduled for movement through the Canal on the date and in the order determined by Canal authorities. In establishing the daily schedule of vessels to be moved through the Canal, the order in which vessels arrive is only one of several considerations. In general, regular transits will equal or exceed in number, one-half the total number of daily vessel transits.

**§ 104.11 Temporary suspension of system.**

(a) Canal authorities may temporarily suspend, in whole or in part, for whatever period of time deemed necessary, the vessel transit reservation system established by this part, whenever Canal authorities determine that such action is necessary to ensure continued safe and efficient operation of the Canal.

(b) No penalty or fee shall be levied against any vessel booked for transit whose reserved transit slot is cancelled by reason of a temporary suspension of the system pursuant to this section.

**§ 104.12 Further implementation.**

(a) In order to ensure safe and efficient operation of the system, Canal authorities may establish additional policies and procedures, define additional terms and issue clarifications and interpretations not inconsistent with the provisions of this part, which will be published and distributed periodically to Canal customers through notices to shipping or other appropriate means.

(b) In the event any provision of this part conflicts with any implementation provision issued pursuant to this section, the provisions of this part shall govern.

Dated: April 10, 1997.

**John A. Mills,**

*Secretary, Panama Canal Commission.*

[FR Doc. 97-9631 Filed 4-14-97; 8:45 am]

BILLING CODE 3640-04-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

[FRL-5811-1]

RIN 2060-AH16

**Revision of New Source Performance Standards for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** On August 6, 1975 the Environmental Protection Agency (Agency) promulgated new source performance standards (NSPS) to limit emissions of total fluoride compounds from several affected facilities in the phosphate fertilizers industry. Amongst the affected facilities covered by the NSPS were triple superphosphate plants and granular triple superphosphate (GTSP) storage facilities. The NSPS for GTSP fertilizer storage facilities in 40 CFR Part 60, Subpart X were promulgated for the purpose of limiting total fluoride emissions resulting from the continuation during storage of the chemical reactions through which GTSP is manufactured. After an initial curing period, the GTSP fertilizers cease to emit appreciable quantities of fluorides. As now written, the NSPS cover all GTSP storage facilities and there is no provision to exempt facilities storing only cured fertilizers.

Today's action clarifies the coverage of the NSPS to limit its applicability to those facilities which store fresh GTSP. As a result of today's action, the NSPS will include a work practice through which manufacturers will hold fresh GTSP in storage until it has cured prior to shipment to their customers. This limits the testing and recordkeeping requirements of Subpart X to only those facilities associated with the manufacture of GTSP and, thereby, removes any recordkeeping burden currently imposed upon downstream distributors and users of this product.

**DATES:** This rule is effective June 16, 1997 unless notice is received by May 15, 1997 that adverse or critical comments will be submitted, or that an opportunity to submit such comments at a public hearing is requested. If adverse comments are received, the effective date will be delayed and timely notice will be published in the **Federal Register**.

**ADDRESSES:** Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A-97-4 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, D.C. 20460. The Agency requests that a separate copy also be sent to the contact person listed below. The docket is located at the above address in Room M-1500, Waterside Mall (ground floor), and may be inspected from 8 a.m. to 4 p.m., Monday through Friday. The docket is an organized and complete file of all the information submitted to or otherwise considered by the Agency in the development of this rulemaking. For